

Please enter the following amendments and remarks:

STATUS OF THE CLAIMS

Claims 1-19 are pending in the Application.

Claims 1-19 have been rejected by the Examiner.

Reconsideration of the present Application is respectfully requested.

REMARKS

Claims 1-7 and 11-19 have been rejected under 35 U.S.C. 102(b) as being anticipated by Cowe (U.S. Patent No. 5,671,362). Claims 8-10 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Cowe (U.S. Patent No. 5,671,362) in view of Markham (U.S Patent Publication No. 2003/0158795). Applicant respectfully traverses these rejections for at least the following reasons.

1. *Amendment after final*

Entry of this Amendment is respectfully requested on the ground that this Amendment places the application in condition for allowance. Alternatively, entry of this Amendment is respectfully requested on the ground that this amendment places the claims in better form and condition for appeal. Furthermore, Applicant submits that any changes made to the claims herein do not require an additional

search on the part of the Office, nor do any amendments made herein raise new issues with regard to the patentability of the claims now pending.

2. *Rejections based on 35 U.S.C. 102(b)*

Claims 1-7 and 11-19 have been rejected under 35 U.S.C. 102(b) as being anticipated by Cowe (U.S. Patent No. 5,671,362). Applicant respectfully traverses these rejections for at least the following reasons.

Anticipation under 35 U.S.C. § 102 requires the cited art teach every aspect of the claimed invention. See, M.P.E.P. §706.02(a). In other words, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." See, M.P.E.P. §2131 citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Claim 1 and dependents therefrom

The present office action rejects Claim 1, in part, setting forth that:

During subsequent runs of program 300, the previous data matrix and item stack descriptive matrix are not re-initialized, but merely updated during the run to reflect the most current status of sensing grid 32.

In addition to the necessity of running initialization sequence 302 to initialize all above-referenced

locations at the start of a first program run, initialization sequence 302 of all data locations in the current and previous data matrices and re-initialization sequence 304 of the current matrix to a high default value of "1" is important in this embodiment because low data locations having "0" value are flagged during a comparison made between the current and previous matrices and the flagged sensor 33 locations are used to properly update the item inventory map of the shelf to determine if an item has been moved, added to or removed from the shelf. *Col. 21, lines 30-46.*

Claim 1 recites the "receiv[ing] at least one attribute of at least one material flow item." The present application defines attribute to be "an object or information item, such as a programmable object, associated with, or belonging to, a specific location, time, office, or person, and is, in particular, capable of at least assisting in the unique identification of that item with which the attribute is associated." Specification page 5, lines 4 – 7.

Applicant respectfully submits that at least the attribute discussed and claimed in the present application is clearly not disclosed in the cited reference Cowe. Specifically in this regard, Cowe teaches a "shelf unit [that] outputs product traffic information." Col. 5, lines 27 –28. Cowe teaches that this monitoring is be performed "by sensing the presence or absence of individual product items in storage on the shelf unit." Col. 5, lines 39 – 41. Applicant respectfully submits that the teaching in Cowe is directed solely to sensing whether, for example, three or five items are in a certain location, instead of determining the details, i.e. "attributes", of uniquely what each item is and where it is, as is claimed in the present invention. As such, in contrast to the teaching of Cowe, Applicant respectfully submits that the present application is directed to unique and specific identification of items and locations to allow for tracking thereof. See generally

page 4 – 5. Applicant submits that this is distinct from determining whether the number of items in a single, known location provide a requisite number of units to provide reordering information, as is done in Cowe. The present application thus involves unique, individualized tracking of items throughout a system by using the attributes of the item. See generally page 5.

The present Office Action rejects this line of reasoning setting forth that the rejected claims do not include the definition for “attribute”. Applicants are permitted to be their own lexicographer and develop terminology used in defining the invention. Applicant has done so in the present application by defining attributes of inventoried items as cited above. In fact, rejected Claim 1 recites attributes, as defined by the specification, throughout. It is, in fact, the attributes of the inventoried items that the present invention tracks, as specified in Claim 1. The rejection states that the “features upon which applicant relies (i.e., information item such as office or person) are not recited in the rejected claims.” Office Action @ 6. In fact, the “attributes” in the claims are exactly the attributes defined in the specification as that term is used throughout the application. Cowe does not teach the tracking of “attributes” of an item and therefore does not render Claim 1 anticipated for at least that reason.

Further, Applicant submits that Cowe fails to teach real-time tracking. The cited portion of Cowe requires the subsequent running of a program. Applicant submits that Cowe thus does not teach a substantially continuous and real-time inventory tracking. Instead, Cowe teaches a program which may be occasionally run to determine storage information. Applicant respectfully submits that, in direct

contrast to Lowe, the very nature of the present invention, i.e., a high volume tracking system that, should one item be misplaced or mistracked, may be subject to catastrophic failure, necessitates a substantially continuous and real-time inventory monitoring system designed to track, identify, and know the whereabouts of a given individual inventory item during storage, during shipment, and upon receipt from, or sending to, a destination.

The present Office Action suggests that "Cowe specifically teaches tracking movements of materials inventory in real-time environment". Applicant respectfully submits that while Cowe may recognize the removal of an inventory item from a shelf, this item is not "tracked." Cowe provides no mechanism for a real-time tracking in that Cowe solely recognizes that the item has been removed from the shelf without providing where the item is moving to. This is particularly evident as Cowe repeatedly recites "product withdrawal information". See generally Cowe; Col. 4, lines 6 and 21. According to the present invention, an item is "tracked." The present invention is directed to knowing where the item is located and where it is moving to and from. For example, the remote operation center is the location where the item enters the materials management system. The item then moves to at least one receiving station, which in turn updates the attributes of the item. Inapposite, Cowe teaches a shelf and sensors to recognize whether or not items are located at a certain address on a certain shelf. Basically, Cowe identifies how full a shelf is with respect to goods resident on that shelf. This is very clearly not tracking as that term is used in the present claims, or as that term is usually defined (following a moving trail, according to Merriam-Webster Online Dictionary).

Cowe monitors a location for the existence of an item. No tracking is involved, as Cowe does not follow a moving trail of the item. The present invention, in fact, follows the moving trail, and hence it tracks the item as the item moves from a remote operation center to at least one receiving station. Applicant respectfully submits that Claim 1 is not anticipated by Cowe for at least the reason set forth hereinabove.

As set forth hereinabove, Applicant respectfully traverses the 35 U.S.C. § 102(b) rejection with respect to Claim 1 for at least the foregoing reasons. Similarly, Applicant respectfully submits that Claim 1 is patentably distinguishable over the prior art of record. Analogously, Applicant respectfully submits that Claim 2 – 7 and 11-13 similarly overcome the prior art, at least because of these Claims' ultimate dependence on patentably distinguishable base Claim 1.

Claim 14

With respect to Amended Claim 14, the present Office Action sets forth a rejection similar to that discussed hereinabove with respect to Claim 1, and thus Applicant respectfully traverses for the same reasons as set forth above with respect to Claim 1.

Amended Claim 14 recites, in part,

A method of controlling a materials management flow including at least one inventoried item **moving through at least two distinct geographic locations**, comprising:

scanning the at least one inventoried item upon entry into the materials management flow at a first local receiving station, said first local receiving station **located at a first of the distinct geographic locations**;

scanning the at least one inventoried item at at least one secondary receiving station prior to delivery of the item, said secondary receiving station **located at a second geographic location distinct from the first geographic location**;

scanning the at least one inventoried item at at least one tertiary receiving station upon delivery of the item, said tertiary receiving station **located at a third geographic location distinct from the first and the second geographic locations**;

scanning the at least one least one tertiary receiving station upon delivery of the item;

Applicant respectfully submits that support for the current amendments may be found generally within the specification of the current application.

The present office action has identified secondary and tertiary as functional language. While not acquiescing in this characterization, Applicant has herein amended Claim 14 to more accurately define what Applicant regards as the invention. In this regard, Applicant respectfully submits that Amended Claim 14 recites receiving stations located at distinct geographic locations, and tracking at

least one inventoried item's path through those multiple distinct locations.

Applicant submits that such movement and tracking is not taught in Cowe.

Additionally, the present office action sets forth that secondary and tertiary receiving stations are non-functional. Applicant respectfully disagrees with this characterization, and Amended Claim 14 sets forth claimed elements which clearly define function. Cowe teaches a stationary shelf unit directed toward monitoring shelf space for a unit of inventory. The current application is directed to an inventory monitoring system suitable for use across at least two distinct geographic locations. Applicant respectfully submits that a modification of Cowe to include multiple geographic locations would substantially alter the method of operation of the system of Cowe to the point of creating a new invention. Cowe does not teach a "tracking" system, but rather teaches a mere "monitoring system", operative only at a single geographic point of storage. In this regard, Cowe teaches:

An item-detecting subsystem comprises a sensing grid 32, covering the bottom panel of shelf 20 which sensing grid 32 comprises an array of sensors 33 responsive to the presence of product items 33. Sensors 33 are preferably binary and provide a digital output. However, if a proportional weight-related signal or other graduated signal output is desired, sensors may be analog and the output signal can be converted to digital for processing. *Col. 7, lines 53-60.*

In light of this, Applicant respectfully submits that Cowe does not teach a tracking system, but rather merely senses whether an unspecified box or unit is sitting on a shelf at the certain location. In stark contrast, the present invention teaches an

inventory tracking system that includes points of origin and points of departure.

See Figure 3 and related description.

Additionally, Applicant's tracking system, as claimed, concludes with the delivery of an inventory item. Upon delivery the present claim recites "scanning the at least one least one tertiary receiving station". This step is not recited in Cowe, nor does the present office action suggest that the step is recited in Cowe. Further, the present office action does not recite any teaching rendering this step obvious or anticipated. Applicant respectfully submits that the lack of a teaching in the prior art of the step of "scanning" the final "receiving station" renders Claim 14 non-obvious and not anticipated by the prior art.

Applicant thus respectfully submits that Claim 14 is not anticipated by the prior art cited for at least the reasons set forth with respect to Claim 1 and further for the reasons set forth hereinabove.

Claim 15

With respect to Claim 15, the present Office Action sets forth a rejection similar to that discussed hereinabove with respect to Claim 1. Applicant respectfully submits that Claim 15 is similarly not anticipated by the prior art cited for at least the reasons set forth with respect to Claim 1.

Claim 16 and dependents therefrom

With respect to Claim 16, the present Office Action sets forth a rejection similar to that discussed hereinabove with respect to Claim 1. Applicant submits that because Claim 16 is patentably distinguishable over the prior art of record for at least the reasons set forth with respect to Claim 1, the rejection set forth for Claims 17-19 is similarly overcome, at least in part because of these Claims' ultimate dependence on patentably distinguishable base Claim 16.

Wherefore, Applicant respectfully requests reconsideration and removal of the 35 U.S.C. 102(b) rejections, as Claims 1, 14, 15 and 16 are patentably distinguishable over the prior art of record.

3. *Rejections based on 35 U.S.C. 103(a)*

Claims 8-10 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Cowe (U.S. Patent No. 5,671,362) in view of Markham (U.S. Patent Publication No. 2003/0158795). Applicant respectfully traverses these rejections for at least the following reasons.

35 U.S.C. §103(a) recites:

[a] patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have

been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

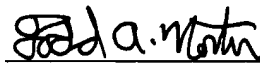
To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). *MPEP 706.02(j)*.

Wherefore, Applicant respectfully requests reconsideration and removal of the 35 U.S.C. 103 rejections, as Claims 1 and 16 are patentably distinguishable over the prior art of record, for at least the reasons set forth hereinabove. Applicant further submits each of Claims 2 – 13 and 17 – 19 is similarly distinguishable over the prior art of record, at least by virtue of these Claims' ultimate dependency from a patentably distinct base Claim 1 or 16.

Conclusion

Applicant respectfully requests reconsideration of the present Application in light of the reasons set forth herein, and a Notice of Allowance for all pending claims is earnestly solicited.

Respectfully Submitted,



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